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HOUSE BILL 430

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Dara Dana

AN ACT

RELATING TO JUVENILE JUSTICE; PROVIDING MUNICIPAL, MAGISTRATE AND METROPOLITAN COURTS WITH CONCURRENT JURISDICTION OVER MISDEMEANOR AND PETTY MISDEMEANOR OFFENSES AND MUNICIPAL ORDINANCE VIOLATIONS; AMENDING AND ENACTING SECTIONS OF THE DELINQUENCY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 32A-1-8 NMSA 1978 (being Laws 1993, Chapter 77, Section 17, as amended) is amended to read:

"32A-1-8. JURISDICTION OF THE COURT--TRIBAL COURT JURISDICTION. --

A. The court has exclusive original jurisdiction, except as provided in Sections 32A-2-29 and 32A-2-29.1 NMSA 1978, of all proceedings under the Children's Code in which a person is eighteen years of age or older and was a child at

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1 the time the alleged act in question was committed or is a  
2 child alleged to be:

- 3 (1) a delinquent child;
- 4 (2) a child of a family in need of services;
- 5 (3) a neglected child;
- 6 (4) an abused child;
- 7 (5) a child subject to adoption; or
- 8 (6) a child subject to placement for a  
9 developmental disability or a mental disorder.

10 B. The court has exclusive original jurisdiction  
11 to emancipate a minor.

12 C. During abuse or neglect proceedings in which  
13 New Mexico is the home state, pursuant to the provisions of  
14 the Child Custody Jurisdiction Act, the court shall have  
15 jurisdiction over both parents to determine the best interest  
16 of the child and to decide all matters incident to the court  
17 proceedings.

18 D. Nothing in this section shall be construed to  
19 in any way abridge the rights of any Indian tribe to exercise  
20 jurisdiction over child custody matters as defined by and in  
21 accordance with the federal Indian Child Welfare Act of 1978.

22 E. A tribal court order pertaining to an Indian  
23 child in an action under the Children's Code shall be  
24 recognized and enforced by the district court for the judicial  
25 district in which the tribal court is located. A tribal court

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1 order pertaining to an Indian child that is not subject to the  
2 provisions of the Children's Mental Health and Developmental  
3 Disabilities Act and that accesses state resources shall be  
4 recognized and enforced pursuant to the provisions of  
5 intergovernmental agreements entered into by the Indian  
6 child's tribe and the department or another state agency. "

7 Section 2. A new section of the Delinquency Act, Section  
8 32A-2-29.1 NMSA 1978, is enacted to read:

9 "32A-2-29.1. [NEW MATERIAL] MISDEMEANOR AND PETTY  
10 MISDEMEANOR OFFENSES-- MUNICIPAL ORDINANCE VIOLATIONS. --

11 A. The municipal, magistrate or metropolitan court  
12 shall have concurrent jurisdiction over all misdemeanor and  
13 petty misdemeanor offenses or municipal ordinance violations  
14 when the person alleged to have committed the violation is a  
15 child, with the exception of those violations set forth in  
16 Paragraphs (2), (4), (5) and (7) of Subsection A of Section  
17 32A-2-3 NMSA 1978 and misdemeanor and petty misdemeanor  
18 offenses alleged to have been committed by the child arising  
19 out of the same occurrence pursuant to Subsection B of this  
20 section.

21 B. If the children's court acquires jurisdiction  
22 over a child pursuant to any of the offenses set forth in  
23 Subsection A of Section 32A-2-3 NMSA 1978, it shall have  
24 jurisdiction over all offenses alleged to have been committed  
25 by the child arising out of the same occurrence.

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C. All misdemeanor or petty misdemeanor offenses or municipal ordinance violations that the child is found to have committed by the municipal, magistrate or metropolitan court shall not be subject to the confidentiality provisions of the Delinquency Act.

D. A municipal, magistrate or metropolitan court may not incarcerate a child who has been found guilty of a misdemeanor or petty misdemeanor offense or a municipal ordinance violation without first securing the approval of the children's court. "

Section 3. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1999.